

EDMUND G. BROWN JR., Attorney General  
of the State of California  
ABRAHAM M. LEVY, State Bar No. 189671  
Deputy Attorney General  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-0977  
Facsimile: (213) 897-6326

Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation/Petition to  
Revoke Probation Against:

GEOFFREY RAMIREZ  
6499 Sherman Street  
Chino, CA 91710

Respiratory Care Practitioner License No. 21716

Respondent.

Case No. D1 2004 293

OAH No.

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 24, 2008, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, filed Accusation/Petition to Revoke Probation No. D1 2004 293 against Geoffrey Ramirez (Respondent) before the Respiratory Care Board.

2. On or about October 23, 2000, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License No. 21716 to Respondent. The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2010, unless renewed.

3. On or about March 24, 2008, Andrea Pina, an employee of the Board, served by both regular and certified mail a copy of the Accusation/Petition to Revoke Probation No. D1 2004 293, to Respondent's address of record with the Board, which was 15358 Ramona Avenue, Fontana, Calif. 92336. The United States Postal Service left two certified mail notices

1 for Respondent at this address: On March 26, 2008 at 2:42 pm and on April 14, 2008 at 12:50  
2 pm. On April 22, 2008, Respondent telephoned his probation monitor and acknowledged to him  
3 that he had received the United States Postal Service mail. The Accusation and Petition to  
4 Revoke and attendant documents submitted by certified mail were returned to the Board as  
5 unclaimed on May 21, 2008. The regular mail was not returned to the Board. A copy of the  
6 Accusation/Petition to Revoke Probation, the related documents, and Declaration of Service are  
7 attached as exhibit A, and are incorporated herein by reference.

8 4. Service of the Accusation/Petition to Revoke Probation was effective as a  
9 matter of law under the provisions of Government Code section 11505, subdivision (c).

10 5. Government Code section 11506 states, in pertinent part:

11 "(c) The respondent shall be entitled to a hearing on the merits if the respondent  
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the  
13 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
14 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

15 6. Respondent failed to file a Notice of Defense within 15 days after service  
16 upon him of the Accusation/Petition to Revoke Probation, and therefore waived his right to a  
17 hearing on the merits of Accusation/Petition to Revoke Probation No. D1 2004 293.

18 7. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense or to appear at the  
20 hearing, the agency may take action based upon the respondent's express admissions or  
21 upon other evidence and affidavits may be used as evidence without any notice to  
22 respondent."

23 8. Pursuant to its authority under Government Code section 11520, the Board  
24 finds Respondent is in default. The Board will take action without further hearing and, based on  
25 Respondent's express admissions by way of default and the evidence before it, contained in  
26 exhibits A and B, finds that the allegations in Accusation/Petition to Revoke Probation No.  
27 D1-2004293 are true.

28 9. The Respiratory Care Board further finds that pursuant to Business and

1 Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed  
2 for in the Accusation/Petition to Revoke Probation total \$5653, based on the Certification of  
3 Costs contained in Exhibit B.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Geoffrey Ramirez has  
6 subjected his Respiratory Care Practitioner License No. 21716 to discipline.

7 2. A copy of the Accusation/Petition to Revoke Probation and the related  
8 documents and Declaration of Service are attached.

9 3. The agency has jurisdiction to adjudicate this case by default.

10 4. The Respiratory Care Board is authorized to revoke Respondent's  
11 Respiratory Care Practitioner License based upon the following violations alleged in the  
12 Accusation/Petition to Revoke Probation:

13 5. On January 2, 2008, Respondent provided a urine specimen for testing and  
14 analysis. On January 11, 2008, the Board received a laboratory report indicating a positive result  
15 for Amphetamines at a level of 560 nanograms per milliliter and Methamphetamine at a level  
16 greater than 10000 nanograms per milliliter. Both results register over the established laboratory  
17 cutoff level. Furthermore, the D/L Amphetamine ratio was 27. The D/L Methamphetamine ratio  
18 was 14. These ratios indicate that the Methamphetamine found in Respondent's system is likely  
19 the result of the use of a Schedule II central nervous system stimulant, D-Methamphetamine.

20 6. These results thus confirm that Respondent obtained, possessed and used a  
21 controlled substance in violation of Code sections 3750.5(a) and (b).

22 7. In the Drug Questionnaire, question number 1, which Respondent  
23 completed and signed subject to penalty of perjury dated January 15, 2008, Respondent answered  
24 "no" to the following question: "In the past month, have you used or ingested any prescribed  
25 medication, narcotic or drug?"

26 8. In fact, contrary to this answer, Respondent tested positive for  
27 Amphetamine and Methamphetamine.

28 9. On or about September 27, 2005 Respondent signed his Stipulated

1 Settlement and Disciplinary Order under penalty of perjury. With respect to the “Quarterly  
2 Reports,” condition number 7, it advised Respondent as follows: “Omission or falsification in  
3 any manner of any information on these reports shall constitute a violation of probation and shall  
4 result in the filing of an accusation and/or a petition to revoke probation against Respondent’s  
5 respiratory care practitioner license.”

6           10. In the Quarterly Report of Compliance, question number 1, which  
7 Respondent completed and signed subject to penalty of perjury dated January 1, 2008, he  
8 answered “yes” to the following question: “Have you complied with every term and condition of  
9 your probation?”

10           11. In the Quarterly Report of Compliance, question number 3, which  
11 Respondent completed and signed subject to penalty of perjury dated January 1, 2008, he  
12 answered “no” to the following question: “Have you resigned from any employment or has your  
13 employment been terminated?”

14           12. In fact, Respondent was terminated from East Valley Hospital on  
15 November 4, 2007.

16           13. Respondent failed to submit to biological fluid specimen testing on March  
17 10, 2007 as required as a condition of his probation.

18           14. As part of Respondent’s obligation under Condition 2 to participate in  
19 random drug testing respondent agreed to call a designated automated toll-free phone number,  
20 the drug testing telephone system, on a daily basis. This system is operated by Compass Vision,  
21 Inc. He understood, further, that his failure to call this number on a daily basis would constitute  
22 a violation of his probation and further disciplinary action may occur.

23           15. On the following dates he failed to call this system: June 28, 2007; July  
24 14, 2007; August 19, 2007; September 28, 2007; October 31, 2007; December 1, 2007;  
25 December 9, 2007; January 30, 2008; February 13, 2008; February 15, 2008; February 19, 2008;  
26 February 29, 2008, March 2, 2008, March 10, 2008 and March 11, 2008.

27           16. Respondent’s probation is subject to revocation because he failed to  
28 comply with Probation Condition 3. Specifically, Respondent failed to abstain from the use of

dangerous drugs. The facts and circumstances regarding this violation are as follows:

17. On January 2, 2008, Respondent provided a urine specimen for testing and analysis. On January 11, 2008, the Board received a laboratory report indicating a positive result for Amphetamines at a level of 560 nanograms per milliliter and Methamphetamine at a level greater than 10000 nanograms per milliliter. Both results register over the established laboratory cutoff level. Furthermore, the D/L Amphetamine ratio was 27. The D/L Methamphetamine ratio was 14. These ratios indicate that the Methamphetamine found in Respondent's system is likely the result of the use of a Schedule II central nervous system stimulant, D-methamphetamine.

18. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 9. The facts and circumstances regarding this violation are as follows:

19. Respondent is in arrears in the amount of \$500.00 towards his probation monitoring costs.

20. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 12. The facts and circumstances of this violation are as follows:

21. Respondent failed to notify the Board that his employment status with East Valley Medical Center changed. He was terminated from East Valley Medical Center on November 4, 2007.

## ORDER

IT IS SO ORDERED that Respiratory Care Practitioner License No. 21716, heretofore issued to Respondent Geoffrey Ramirez, is revoked.

Respondent is ordered to reimburse the Respiratory Care Board the amount of \$5653.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs.

Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), Respondent may

1 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
2 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
3 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
4 statute.

5 This Decision shall become effective on July 11, 2008.

6 It is so ORDERED June 11, 2008

7  
8  
9 Original signed by:  
10 LARRY L. RENNER, BS, RRT, RCP, RPFT  
11 PRESIDENT, RESPIRATORY CARE BOARD  
12 DEPARTMENT OF CONSUMER AFFAIRS  
13 STATE OF CALIFORNIA

12 ramirez\_g\_default\_rvk.wpd  
13 DOJ Matter ID: LA2008500340

14 Attachments:

15 Exhibit A: Accusation/Petition to Revoke Probation No. D1 2004 293, Related Documents,  
16 and Declaration of Service

17 Exhibit B: Certification of Costs: Declaration of Andrea Pina  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28